

HOUSE BILL No. 1253

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-43-11; IC 36-1-20.

Synopsis: Sale of marked goods. Provides that a municipality may adopt an ordinance that establishes licensing requirements for a person who uses a trademark or service mark in connection with the sale, offering for sale, distribution, or advertising of goods. Makes it a Class A misdemeanor to manufacture, display, advertise, distribute, offer for sale, sell, or possess with the intent to sell or distribute a good that bears or is identified by a counterfeit mark.

Effective: July 1, 2010.

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January 12, 2010, read first time and referred to Committee on Courts and Criminal Code.

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Second Regular Session 116th General Assembly (2010)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

HOUSE BILL No. 1253

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-43-11 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2010]:

4 **Chapter 11. Counterfeiting Intellectual Property**

5 **Sec. 1. As used in this chapter, "counterfeit mark" means a:**

6 (1) reproduction or copy of a mark; or

7 (2) mark affixed to a good;

8 **without the consent of the owner of the mark.**

9 **Sec. 2. As used in this chapter, "mark" has the meaning set**
10 **forth in IC 24-2-1-2.**

11 **Sec. 3. As used in this chapter, "retail value" means the price at**
12 **which a person sells a good that bears or is identified by a**
13 **counterfeit mark. In the case of items bearing a counterfeit mark**
14 **that are components of a finished good, the term means the price**
15 **at which the person regularly sells the finished good on or in which**
16 **the items are used.**

17 **Sec. 4. (a) A person who knowingly or intentionally:**



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- (1) manufactures;
- (2) displays;
- (3) advertises;
- (4) distributes;
- (5) offers for sale;
- (6) sells; or
- (7) possesses with the intent to sell or distribute;

a good that bears or is identified by a counterfeit mark commits counterfeiting a mark, a Class A misdemeanor.

(b) The offense under subsection (a) is a Class D felony if the:

- (1) person has a prior unrelated conviction under this section;
- (2) offense involved more than one hundred (100) goods bearing or identified by a counterfeit mark; or
- (3) offense involved goods with a total retail value of more than one thousand dollars (\$1,000).

SECTION 2. IC 36-1-20 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:

Chapter 20. Licensing of Persons Who Use Trademarks or Service Marks

Sec. 1. As used in this chapter, "mark" has the meaning set forth in IC 24-2-1-2.

Sec. 2. As used in this chapter, "person" has the meaning set forth in IC 35-43-6-7.

Sec. 3. As used in this chapter, "use" has the meaning set forth in IC 24-2-1-2.

Sec. 4. A municipality may adopt an ordinance that establishes licensing requirements for a person that uses a mark in connection with the sale, offering for sale, distribution, or advertising of goods.

Sec. 5. A municipality may enforce an ordinance adopted under this chapter in accordance with IC 36-1-6.

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